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**AUG 28 2008**

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**Date:** August 25, 2008

**Time:** 5:20:25 PM

**To:** Cynthia M. Kratz  
Office of PCT Legal Administration

**Fax:** 571-273-0459

**From:** Warren K. MacRae, Esq.  
Personal ID: 11390  
Client/Re: 211339.10001

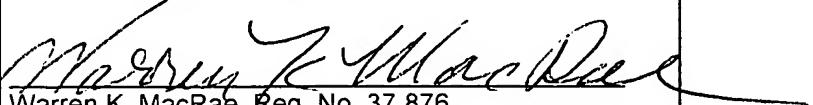
**Fax:** 212-407-4990  
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**MESSAGE TO ADDRESSEE:**

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Warren K. MacRae, Reg. No. 37,876

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NY736051.1  
211339-10001



PATENT  
Docket No.: C064834/0206694  
210339.10001

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of : ) Confirmation No.: Not Yet Assigned  
Hans-Robert-Hellmuth Damrau *et al.* )  
Serial No.: 10/532,523 ) Examiner: Not Yet Assigned  
Filed: April 25, 2005 ) Art Unit: N/A  
For: **PREPARATION OF PARTIALLY** )  
**HYDROGENATED RAC-ANSA-** )  
**METALLOCENE COMPLEXES** )

August 25, 2008

**PETITION UNDER 37 C.F.R. § 182 FOR ACCEPTANCE OF  
INVENTOR STEPHANIE GYPPAZ (STEPHANIE DUCHIRON) DECLARATION**

ATTN: Cynthia M. Kratz  
Mail Stop - PCT  
Commissioner For Patents  
Office of PCT Legal Administration  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

This is in response to the Decision On Petition Under 37 C.F.R. § 147(a) which vacated the Notice of Abandonment of February 25, 2008. (Copy attached as Exhibit A, p. 2). The Decision further stated that this application will be held in the Office of Patent Cooperation Treaty Legal Administration awaiting applicant's further reply to the Decision. (*Id*). Accordingly, this response is believed timely filed upon facsimile, with an executed certificate of facsimile.

Authorization is hereby granted to charge the amount of \$400.00 in payment of the fee required for a Petition under 37 C.F.R. § 182 (See 37 C.F.R. § 1.17(f)), to

Deposit Account No. 50-2547. It is not believed that this response occasions any request for an extension of time or that any additional fees are due, but should there be any request for extension of time necessary or any additional fees due, such request for extension of time is hereby made and authorization is hereby granted to charge the fee for the same to Deposit Account No. 50-2547.

In the Decision on Petition, it was stated that five of the six complete declarations submitted previously fully complied with the requirements of 37 C.F.R. § 1.497(a). (Exhibit A, p. 2). However, the declaration of inventor "Stephanie Duchiron," whose married name is now "Stephanie Gyppaz," was stated to be unacceptable because, although the declaration clearly and expressly identified "Stephanie Gyppaz" as the former "Stephanie Duchiron" ("maiden name, Stephanie Duchiron"), "no explanation was provided" for the difference in names. (*Id.*).

Undersigned counsel telephoned Ms. Cynthia M. Kratz, Attorney Advisor of the PCT Legal Office, to request clarification and guidance for responding to the Decision. Undersigned counsel specifically explained that the signed and sworn Declaration clearly and expressly shows the reason for signing of the name "Stephanie Gyppaz" rather than "Stephanie Duchiron". Ms. Duchiron has been married since the original application was filed and her name has changed to Mrs. Gyppaz. This is clearly shown on the Declaration which appears as shown below:

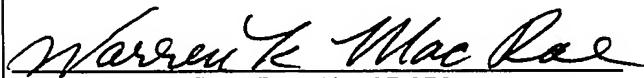
FULL NAME OF SIGNING INVENTOR Stephanie Gyppaz (maiden name Stephanie Duchiron)	INVENTOR'S SIGNATURE 	DATE 27.02.07
RESIDENCE ADDRESS 24 rue du Loing, 45200 Montargis, France	COUNTRY French	
POST OFFICE ADDRESS 24 rue du Loing, 45200 Montargis, France		

Ms. Kratz advised undersigned counsel to fashion this submission as a Petition Under Rule 37 C.F.R. § 182 and to address it to her attention. Accordingly, submitted herewith again is a copy of the complete executed declaration of Stephanie Gyppaz (formerly known as Stephanie Duchiron). (Exhibit B).

Thus, for the foregoing reasons, it is respectfully submitted that the Declaration submitted herewith fully complies with the requirements set forth in the Decision On Petition Under 37 C.F.R. § 1.47(a) mailed May 6, 2008, in that the reason for the new name is plain on the face of the Declaration. Hence, it is requested that the Declaration be approved for the above identified application.

If the Attorney Advisor has any questions regarding this submission, she is respectfully requested to contact undersigned counsel at the address below at her convenience.

I hereby certify that this correspondence is being transmitted via Facsimile Transmission to : Office of PCT Legal Administration, Facsimile No. 1-571-273-0459. It is also being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop – PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, VA 22313-1450, on August 25, 2008.

  
Warren K. MacRae, Reg. No. 37,876

Respectfully submitted,

By:

  
Warren K. MacRae  
Registration No. 37,876  
LOEB & LOEB LLP  
345 Park Avenue – 18<sup>th</sup> Floor  
New York, NY 10154  
(212) 407-4098 – Tel.  
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# **EXHIBIT A**



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
[www.uspto.gov](http://www.uspto.gov)

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IP / Law

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Basell USA Inc.  
Delaware Corporate Center II  
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Wilmington DE 19803

In re Application of

DAMRAU et al.

Application No.: 10/532,523

PCT No.: PCT/EP03/11679

Int. Filing Date: 22 October 2003

Priority Date: 25 October 2002

Attorney Docket No.: 09086-00223-US

For: PREPARATION OF PARTIALLY  
HYDROGENATED RAC-ANSA-  
METALLOCENE COMPLEXES

DECISION ON

PETITION UNDER

37 CFR 1.497(a)

This is a decision on applicant's Petition under 37 CFR 1.497(a) regarding submission of executed Declarations filed on 05 March 2008 in the United States Patent and Trademark Office (USPTO). Applicant's request for a five month extension of time is granted.

#### BACKGROUND

On 15 September 2005, applicants filed a petition under 37 CFR 1.47(a).

On 23 January 2006, a decision dismissing the petition under 37 CFR 1.47(a) was mailed, indicating that applicant had not demonstrated a diligent effort to locate the nonsigning inventor. Applicant was also advised that an executed declaration, signed on behalf of the joint inventors and the nonsigning inventor, was not found among the papers submitted on 15 September 2005.

On 23 March 2006, applicant submitted a declaration executed by the previously nonsigning inventor Stephanie Duchiron. In response to a telephone call from the undersigned, on 22 August 2006, applicant provided a copy of the declaration, which was executed by six of seven joint inventors.

On 01 September 2007, a decision was mailed to applicant dismissing the petition under 37 CFR 1.47(a) as moot and indicating that newly executed declarations were required.

On 25 February 2008, a Notification of Abandonment was erroneously mailed to applicant, indicating that applicant had failed to respond to the Notification of Missing Requirements.

On 07 March 2008, applicant filed a petition under 37 CFR 1.497(a) along with six newly executed declarations and a request for a five month extension of time.

### DISCUSSION

Applicant submitted six complete declarations. Upon review, five declarations are in compliance with 37 CFR 1.497(a) and executed by one or more inventors. Thus, these declarations are now acceptable.

However, one declaration indicated the name of fourth inventor "Stephanie Gyppaz (maiden name Stephanie Duchiron)" and was signed as Stephanie Gyppaz. However, the published international application identified the inventor as Stephanie Duchiron. No explanation was provided.

A petition under 37 CFR 1.182 is required to accept the change in the name of the inventor. As explained in MPEP 605.04(c), applicant must provide a signed affidavit setting forth both names and the procedure whereby the change of name was effected, or a certified copy of the court order. The declaration, indicating Stephanie Duchiron as an inventor, is not in compliance with 37 CFR 1.497 and unacceptable at this time.

The requirements of 37 CFR 1.497(a) and (b) have not been met and the declaration executed by Stephanie Gyppaz is unacceptable at this time.

### CONCLUSION

The 25 February 2008 Notification of Abandonment is hereby VACATED.

Five declarations submitted on 05 March 2008 are in compliance with 37 CFR 1.497(a) and (b) and are acceptable. However, as set forth above, a petition under 37 CFR 1.181 is required.

The application will be held in the Office of Patent Cooperation Treaty Legal Administration to await applicant's further reply.



Cynthia M. Kratz  
Attorney Advisor  
PCT Legal Office  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3286  
Facsimile: (571) 273-0459

## **EXHIBIT B**

LU 6060 (US)

DECLARATION FOR PATENT

As a below named inventor, I/we hereby declare that: my residence, post office address and citizenship are as stated below next to my name; I/we believe I/we am/are the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled:

**PREPARATION OF PARTIALLY HYDROGENATED RAC-ANSA-METHYL ANHYDRIDE COMPLEXES**

the specification of which: (check one)

is attached hereto

OR

was filed on (MM/DD/YYYY) 10/22/2003, as United States Application Number or PCT International Application Number PCT/RP2003/011679 and was amended on (MM/DD/YYYY) \_\_\_\_\_ (if applicable).

I/we hereby state that I/we have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above; and I/we acknowledge the duty to disclose information which is material to the patentability of this application as defined in 37 CFR §1.56, including for continuation-in-part applications, material information which became available between the filing date of the prior application and the national or PCT international filing date of the continuation-in-part application.

I/we hereby claim foreign priority benefits under 35 USC §119(a) – (d) or (f), or §365(b) of any foreign application(s) for patent or inventor's certificate, or §365(a) of any PCT international application which designated at least one country other than the United States of America, listed below and have also identified below, by checking the box below, any foreign application for patent or inventor's certificate, or of any PCT international application having a filing date before that of the application on which priority is claimed:

Prior Foreign Application(s):			Priority Claimed:	
Number	Country	Date/Month/Year Filed	Yes	No
10250025.8	DE	10/25/2002	X	

I/we hereby claim the benefit under 35 USC §120 of any United States application(s) listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States application in the manner provided by 35 USC §112, first paragraph, I/we acknowledge the duty to disclose material information as defined in 37 CFR §1.56 which occurred between the filing date of the prior application and the national or PCT international filing date of this application:

U.S. Application Serial No.	Filing Date	Status

LU 6060 (US)

2

I/we hereby claim the benefit under 35 USC §119(e) of any United States provisional application(s) listed below:

Application Serial No.	Filing Date
60/431806	12/09/2002

Send correspondence to: CUSTOMER NUMBER 34872

Direct telephone calls to: William R. Reid, Reg. No. 47,894  
(410) 996-1783

I/we hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Sec. 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

FULL NAME OF SOLE OR FIRST INVENTOR <b>Hans-Robert-Hellmuth Damrau</b>	INVENTOR'S SIGNATURE	DATE
RESIDENCE 25 rue des deux ponts, Genève, Switzerland 1205	CITIZENSHIP German	
POST OFFICE ADDRESS 25 rue des deux ponts, Genève, Switzerland 1205		

FULL NAME OF SECOND INVENTOR <b>Patrik Müller</b>	INVENTOR'S SIGNATURE	DATE
RESIDENCE Wartburgstrasse 8, D-65929 Frankfurt, Germany	CITIZENSHIP German	
POST OFFICE ADDRESS Wartburgstrasse 8, D-65929 Frankfurt, Germany		

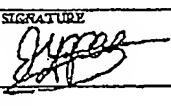
FULL NAME OF THIRD INVENTOR <b>Valeria Garcia</b>	INVENTOR'S SIGNATURE	DATE
RESIDENCE 131 rue du 1 <sup>er</sup> Septembre, F-60280 Marney-les-Compiègne, France	CITIZENSHIP French	
POST OFFICE ADDRESS 131 rue du 1 <sup>er</sup> Septembre, F-60280 Marney-les-Compiègne, France		

FULL NAME OF FOURTH INVENTOR <b>Christian Sidot</b>	INVENTOR'S SIGNATURE	DATE
RESIDENCE 12 avenue de Landshut, F-60200 Compiègne, France	CITIZENSHIP French	
POST OFFICE ADDRESS 12 avenue de Landshut, F-60200 Compiègne, France		

LU 6060 (US)

3

FULL NAME OF FIRST INVENTOR <b>Christian Teller</b>	INVENTOR'S SIGNATURE	DATE
RESIDENCE 1 square Leou Barras, F-60200 Compiègne, France		CITIZENSHIP French
POST OFFICE ADDRESS 1 square Leou Barras, F-60200 Compiègne, France		

FULL NAME OF SECOND INVENTOR <b>Stephanie Gypaz (maiden name Stephanie Duchiron)</b>	INVENTOR'S SIGNATURE 	DATE <b>27.02.07</b>
RESIDENCE 24 rue du Loing, 45200 Montargis, France		CITIZENSHIP French
POST OFFICE ADDRESS 24 rue du Loing, 45200 Montargis, France		

FULL NAME OF THIRD INVENTOR <b>Jean-Francois Lelong</b>	INVENTOR'S SIGNATURE	DATE
RESIDENCE 52 Boulevard Maréchal Foch F-38000 Grenoble, France		CITIZENSHIP French
POST OFFICE ADDRESS 52 Boulevard Maréchal Foch F-38000 Grenoble, France		